

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

PETER J. MILLER, an individual,
CLIFFORD HOYT, an individual, and
CAMBRIDGE RESEARCH AND
INSTRUMENTATION, INC.,
a Delaware corporation,

Plaintiffs,

v.

PATRICK TREADO, an individual, and
CHEMIMAGE CORP., a Delaware
corporation,

Defendants.

Civil Action No. 05-10367-RWZ

**PLAINTIFFS' MOTION TO UNSEAL
ALL PRESENTLY SEALED AND REQUESTED-TO-BE-SEALED DOCUMENTS**

Plaintiffs, Peter J. Miller, Clifford Hoyt, and Cambridge Research and Instrumentation, Inc. (collectively, "plaintiffs"), hereby move to unseal all presently sealed and requested-to-be-sealed documents filed with the Court. A spreadsheet listing all of the presently-sealed and presently-requested-to-be-sealed documents is attached as **Exhibit 1**.

Pursuant to LR 7.1(a)(2), counsel for plaintiffs certify that they have attempted to confer with counsel for defendants in a good faith attempt to obtain defendants' assent to the present motion, and counsel for defendants have not consented to the filing of this motion.

Pursuant to LR 7.1(b)(1), plaintiffs are concurrently filing a memorandum of reasons, including citations to supporting authority, why this motion should be granted.

In support, plaintiffs state as follows:

1. Defendants had previously sought, and obtained from plaintiffs, a contractual stipulation not to disclose certain subject matter publicly. See, e.g., Ex. 1 to plaintiffs' memorandum in support being filed concurrently ("plaintiffs' memo"), ¶2 on p. CRI004143.

2. It is because of this contractual stipulation that plaintiffs have asked the Court to seal certain documents plaintiffs have filed in this litigation.

3. It is believed this contractual stipulation is also the sole reason for all of defendants' sealed documents. See plaintiffs' memo, pp. 2-8.

4. However, the contractual stipulation explicitly states that the subject matter may be disclosed if "required by law or court order". See, Ex. 1 to plaintiffs' memo, ¶2 on p. CRI004143.

5. Plaintiffs are requesting that the Court order such disclosure, which will result in the unsealing of all presently-sealed and requested-to-be-sealed documents in this case. See **Exhibit 1** hereto for complete listing of all documents currently under seal, or currently requested to be sealed.

6. All presently sealed and requested-to-be-sealed documents filed with the Court should be unsealed, at least because (a) the contractual stipulation requiring non-disclosure itself expressly recognizes that a court may order disclosure of the subject matter; (b) there is no compelling reason to keep judicial filings referring to this contract sealed; (c) there is no good cause to keep the subject matter of these filings confidential; and (d) the contract itself is the subject of the new causes of action in plaintiffs' proposed amended complaint and of the substantially identical causes of action in plaintiffs' complaint in a newly-filed action. See plaintiffs' memo, pp. 9-11.

WHEREFORE, plaintiffs respectfully request that the Court:

A. Issue an order requiring that the subject matter of the presently sealed and requested-to-be-sealed documents be disclosed, as explicitly contemplated by the contractual stipulation discussed above (See plaintiffs' memo, p. 12);

B. Issue an order unsealing all hitherto-sealed documents, including the following documents currently under seal (see also **Ex. 1** hereto):

Plaintiffs' motion to amend the complaint (redacted version at [D.E. 40]; no D.E. for sealed unredacted version);

Plaintiffs' memorandum in support of plaintiffs' motion to amend the complaint (redacted version at [D.E. 41]; no D.E. for sealed unredacted version);

Plaintiffs' proposed amended complaint (redacted version at Ex. 1 to [D.E. 41]; no D.E. for sealed unredacted version);

- Exhibits P-U and W-X thereto;

Plaintiffs' opposition to defendants' motion for a 14-day extension of time to file opposition to plaintiffs' motion to amend the complaint (redacted version at [D.E. 45]; sealed unredacted version at [D.E. 47]);

- Exhibits 3-4 thereto;

Defendants' opposition to plaintiffs' motion to amend the complaint (sealed copy at [D.E. 55]);

- All exhibits (A-D) thereto;

Defendants' opposition to plaintiffs' motion to compel production (sealed copy at [D.E. 63]);

- All exhibits (1-6) thereto; and

Plaintiffs' reply to defendants' opposition to plaintiffs' motion to amend the complaint (redacted version at [D.E. 61]; sealed unredacted version at [D.E. 64]);

- Exhibit 2 thereto;

Plaintiffs' Motion to Unseal
All Sealed Documents

C. Dismiss the following currently pending motions to seal as moot, and allow plaintiffs to publicly file the documents for which sealing was requested, including (see also **Ex. 1** hereto):

Plaintiffs' motion [D.E. 66] to impound plaintiffs' proposed reply to defendants' opposition to plaintiffs' motion to compel production (redacted version at Ex. 1 to [D.E. 65]);

Plaintiffs' motion [D.E. 79] to impound plaintiffs' memorandum in support of plaintiffs' motion to consolidate the present action with the newly-filed action (redacted version at [D.E. 78]); and

Plaintiffs' motion [D.E. *being filed concurrently*] to impound unredacted copy of plaintiffs' memorandum in support of plaintiffs' instant motion to unseal all presently-sealed documents (redacted version at [D.E. *n/a*]), and all exhibits (1-3) thereto; and

D. Grant such further and other relief as this Court deems just, equitable and proper.

Respectfully submitted,

**PETER J. MILLER, CLIFFORD HOYT,
and CAMBRIDGE RESEARCH AND
INSTRUMENTATION, INC.,**

By their attorneys:

Dated: September 21, 2006

/s/ Teodor Holmberg
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Plaintiffs' Motion to Unseal
All Sealed Documents

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CERTIFICATE OF SERVICE

I hereby certify that the document identified in the top right-hand portion of this page and filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on September 21, 2006.

/s/ Teodor Holmberg
Teodor J. Holmberg (BBO# 634708)

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EXHIBIT 1 to Plaintiffs' Motion to Unseal
All Presently Sealed and Requested-to-be-Sealed Documents

**LIST OF ALL PRESENTLY SEALED
AND REQUESTED-TO-BE-SEALED DOCUMENTS**

Date of Filing	Docket Entry of Motion to Seal	Docket Entry of Redacted Copy of Document (if any)	Docket Entry of Sealed, Unredacted Copy of Document (if any)	Title of Document	Sealed Exhibits thereto
5/18/06	[D.E. 42] <i>granted</i> by 6/21/06 Elec. Order	[D.E. 40]	-none-	Plaintiffs' Motion to Amend Complaint	-none-
		[D.E. 41]	-none-	Memorandum in Support of Plaintiffs' Motion [D.E. 40] to Amend Complaint	-see next entry-
		[D.E. 41], att #1	-none-	Proposed Amended Complaint	Exs. P-U, W-X
6/9/06	[D.E. 46] [D.E. 48] <i>granted</i> by 6/12/06 Elec. Order	[D.E. 45]	[D.E. 47]	Plaintiffs' Opposition to Defendants' Motion [D.E. 43] for Extension of Time to June 15, 2006 to File Response/Reply as Plaintiffs' Motion [D.E. 40] to Amend Complaint	Exs. 3-4
6/19/06	[D.E. 53] <i>granted</i> by 6/21/06 Elec. Order	-none filed-	[D.E. 55]	Defendants' Opposition to Plaintiff's Motion [D.E. 40] to Amend Complaint	Exs. A-D (all)

Miller et al. v. Treado et al.

D.Mass. Civ. Act. No. 05-10367-RWZ

**LIST of All Presently Sealed and
Requested-to-be-Sealed Documents**

Date of Filing	Docket Entry of Motion to Seal	Docket Entry of Redacted Copy of Document (if any)	Docket Entry of Sealed, Unredacted Copy of Document (if any)	Title of Document	Sealed Exhibits thereto
6/30/06	[D.E. 59] granted by 7/11/06 Elec. Order	-none filed-	[D.E. 63]	Defendants' Opposition to Plaintiff's Motion [D.E. 50] to Compel Production in response to Plaintiffs' Request Nos. 1 and 10(a)	Exs. 1-6 (all)
7/6/06	[D.E. 62] granted by 7/11/06 Elec. Order	[D.E. 61]	[D.E. 64]	Plaintiff's Reply to Defendants' Opposition [D.E. 55] to Plaintiff's Motion [D.E. 40] to Amend	Ex. 2
7/11/06	[D.E. 66] pending	[D.E. 65], att.#1	- n/a -	Plaintiff's Proposed Reply to Defendants' Opposition [D.E. 63] to Plaintiffs' Motion [D.E. 50] to Compel Production in response to Plaintiffs' Request Nos. 1 and 10(a)	-none-
9/15/06	[D.E. 79] pending	[D.E. 78]	- n/a -	Plaintiffs' Memorandum in Support of Plaintiffs' Motion [D.E. 77] to Consolidate	-none-
<i>concurrently</i>	[D.E. ____] pending; being filed concurrently	[D.E. ____]	- n/a -	Plaintiffs' Memorandum in Support of Plaintiffs' Motion [D.E. ____] to Unseal All Presently Sealed and Requested-to-be-Sealed Documents	Exs. 1-3 (all)